(Order Kept in 1236 (SS) of 2006)

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

(1).Writ Petition No. 1236(S/S)2006

Smt. Gargi Ghunta W/o Sri Amar Singh Ghunta,
R/o 44/827, Sirmor Marg, Kaulagarh,
Dehradun. ---- Petitioner.

Vs.

1. Regional Joint Director Education,
   Garhwal Mandal Pauri,
2. District Education Officer, Dehradun,
3. Addl. District Education Officer, Madhyamik,
   Dehradun,
4. Committee of Management of Mahadevi Kanya
   Pathshala Inter College,
   Through it's Manager, M.K.P. Inter College,
   Dehradun,
5. Smt. Rama Ghildiyal W/o Sri Sunil Singh Ghildiyal,
   Resident of 215, Rajpur Road, Dehradun,
   District Dehradun. ----Respondents.

Sri Gopal Narayan Ad. & Munish Bhardwaj, learned counsel for the petitioner,
Sri Paresh Tripathi, learned State Counsel for State of Uttarakhand/respondent 1,2&3.
Sri Manoj Tewari, learned counsel for Committee of Management,
Sri C.K. Sharma, learned counsel for respondent no.5.

AND

(2). Writ Petition No. 1392(S/S)2006

Smt. Rama Ghildiyal W/o Sri Sunil Singh Ghildiyal,
Resident of 215, Rajpur Road, Dehradun,
District Dehradun. ---- Petitioner.

Vs.

1. State of Uttarakhand through the Secretary,
   Secondary Education, Dehradun.
2. Joint Director of Education, Garhwal Region Pauri,
3. District Education Officer, Dehradun,
4. Management Committee, Mahadevi Kanya
   Pathshala Inter College,
   Through its Manager, Dehradun, ----Respondents

Sri C.K. Sharma, learned counsel for the petitioner,
Sri Paresh Tripathi, learned State Counsel for State of Uttarakhand/respondent 1,2&3.
Sri Manoj Tewari, learned counsel for Committee of Management,

Hon'ble M.M. Ghildiyal, J.

Heard Sri Gopal Narayan Ad. & Munish Bhardwaj, learned counsel for the petitioner, Sri Paresh Tripathi, learned Counsel for State of Uttarakhand, Sri Manoj Tewari, learned counsel for Committee of Management, and Sri C.K. Sharma, learned counsel for respondent no.5.

In both the writ petitions, there involve identical set of facts and common legal question which are to be decided, therefore for the sake of convenience, both the writ petition have been consolidated and are being decided by a common judgment. Writ petition no. 1236(ss) 2006 will be leading case.

By means of writ petition no. 1236(ss)2006 the petitioner has prayed for the following reliefs:-

a) Issue a writ, order or direction in the nature of certiorari quashing the order dated 5/6.09.2006 & 20.06.2006 (annexure no. 6 & 7 to the writ petition),

b) Issue a writ, order or direction in the nature of mandamus directing the respondent not to interfere the work of the petitioner as a Lecturer (Home Science), M.K.P., Inter College, Dehradun,

c) Issue any other order or direction which this Hon'ble High Court may deem fit and proper in the facts and circumstances of the case.

d) Award cost of the petition to the petitioner.

Lateron, the petitioner has filed amendment application and sought another prayer to be added din the prayer clause which reads as under:-

bb). Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 27.04.2007 (annexure-12) passed by District Education Officer, Dehradun i.e. respondent no. 2.

By means of writ petition no. 1392(ss)2006 the petitioner has prayed for the following reliefs:-

i. Issue a writ, order or direction in the nature of mandamus directing and commanding the respondents to promote the petitioner on the post of Lecturer Home Science in the Mahadevi Kanya Pathshala, Inter, College, Dehradun,

ii. Issue a writ, order or direction in the nature of mandamus directing the respondents to decide the representations dated 10.07.2006 and 10.09.2006 (annexure nos. 9 & 10 to the writ petition),

iii. Issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case,

iv. Award the cost of petition.

The petitioner Smt. Gargi Ghunta is aggrieved with the order dated 20.06.2006 passed by the Joint Director of Education, Garhwal Division, Pauri and the consequent order dated 5/6.09.2006 passed by Addl. District Education Officer, Dehradun.

Vide order dated 20.06.2006, the Joint Director of Education, has held that though Smt. Gargi Ghunta is senior to Smt. Rama Ghildiyal, but she is not eligible to be promoted on the post of Lecturer (Home Science) as she does not possess

requisite qualification as per the law. In pursuance to this order, the Addl. District Education Officer, Dehradun vide order dated 06.09.2006 has cancelled the approval granted to the petitioner (Gargi Ghunta) for promotion on the post of Lecturer (Home Science) in the Institution.

Vide order dated 27.04.2007 which is also under challenge, the District Education Officer, Dehradun has directed the Committee of Management of the Institution to send proposal of petitioner Smt. Rama Ghildiyal for promotion for the post of Lecturer (Home Science) and also to decide the representation of Smt. Rama Ghildiyal.

The short question which is to be decided and involved in these writ petitions is as to whether a person who has passed graduation degree with one subject as Home Science, is entitled to be promoted on the post of Lecturer (Home Science) or not? As per the Regulations, the qualification prescribed for the said post is as under:-

4. गृह विज्ञान अध्यापक इण्टरमीडिएट(कक्षा 11, 12) के लिए।	1. गृह विज्ञान में एम0एस.सी0 या गृह अर्थशास्त्र (होम इकनामिक्स) या गृह कला (होम आर्ट) में एम0ए0 या 2. गृह–विज्ञान या गृह अर्थशास्त्र (होम इकनामिक्स) या घरेलू–विज्ञान (डोमेस्टिक) साइंस या गृह कला (होम आर्ट) में प्रशिक्षित स्नातक या राजकीय गृह विज्ञान महाविद्यलय, इलाहाबाद का वर्ष 1950–54 के बीच का तीन वर्ष का डिप्लोमा पाठ्यक्रम

Learned Single Judge of this Court on 21.06.2004 in writ petition no. 737 of 2003 (ss) Smt. Neeta Lohani Vs. State of Uttaranchal & others has already decided the question involved in the instant writ petitions. The relevant portion is being quoted hereunder:-

".....The Rule is very clear. It provides the graduate in Home Arts or Home Science or Euthenics. If these candidates are available, then the selection has to be made from only these candidates. Selection of those candidates, who have completed graduation with one subject of Home Science do not fulfill the eligibility under the Rules.

Therefore, Joint Director of Education is directed to correct the mistake and republish the list of the selected candidates, who have their graduation/degree either in Home Art or in Home Science or in Euthenics. If the candidates are not available, then the post shall be re-advertised containing the same qualifications and shall be filled strictly in accordance with the eligibility provided under clause 15 of Rule 8 of the Rules, known as U.P. Subordinated Education (Trained Graduate Grade) Service Rules 1983....."

A review application was filed against the observations made in writ petition no. 737 (ss)2003 on 21.06.2004, however the observation made by the Court in respect of the qualifications of a Teacher (Home Science), remained unchanged in the said judgment. Against this judgment a special appeal was filed and Hon'ble the Division Bench of this Court has upheld the judgment of the Single Judge.

It is not disputed that Smt. Gargi Ghunta is graduate with one subject as Home Science alongwith two other subjects, namely, Sanskrit and Art. Thus, as per the judgment of the Single Judge, findings of which have been upheld by Hon'ble the Division Bench of this Court Smt. Gargi Ghunta is not entitled to promoted on he post of Lecturer (Home Science).

In view of the aforesaid situation, I do not find any illegality or infirmity in the order passed by the joint Director of Education on 20.06.2006 and the consequential order passed by the Addl. District Education Officer, Dehradun on

06.09.2006 as well as the order passed by District Education Officer on 27.04.2007.

Learned counsel for the parties drew attention of the Court towards the Rules pertaining to educational qualifications of the Teachers of Private Colleges and that of the Govt. Colleges. Having hearing learned counsel for the parties and going through these Rules, I am of the views that the Rules regarding educational qualifications of the Teachers of Private Colleges and that of the Govt. Colleges are para-in-materia.

Learned counsel for Smt. Gargi Ghunta has submitted that Smt. Rama Ghildiyal was appointed in the year 1987 in C.T. Grade against a short time vacancy. Though her services were terminated in the year 1991, however she continued to work in the Institution without any order of reappointment which is evident from the letter issued by the Addl. District Education Officer dated 24.04.2007 and she is also getting salary. Submission of the petitioner Smt. Rama Ghildiyal is that termination order was never given effect to and she was continuing on the post and thereafter she was regularized in L.T. Grade w.e.f. 06.01.1993.

The petitioner Smt. Gargi Ghunta did not challenge the regularization order of Smt. Rama Ghildiyal who was regularized w.e.f. 06.01.1993. In the forgoing circumstances, I do not find any merit in writ petition no. 1236(ss)2006, therefore, the same is liable to be dismissed.

So far the writ petition no. 1392(ss)2006 is concerned, in view of the fact that the District Education Officer has already asked the Committee of Management of the Institution to send

proposals for promotion of Smt. Rama Ghildiyal, the grievances of Smt. Rama Ghildiyal have already been redressed, therefore the writ petition no. 1392(ss)2006 has rendered infructuous.

Accordingly, the writ petition no. 1236 (ss)2006 is hereby dismissed. The writ petition no. 1392(ss)2006 has rendered infructuous and is being disposed of accordingly. No order as to costs.

All the pending applications stand disposed of.

Let a certified copy of this judgment to kept in the connected writ petition.

(M.M. Ghildiyal, J.)

June 11, 2007;
NCM: